

EXHIBIT 1

Process and Formula for Identification of Qualified Class Members¹ to Receive Promotion Awards

1. So that Class Counsel may identify the Qualified Class Members entitled to receive a promotion award, within fifteen (15) days of Final Approval, Goddard will provide Class Counsel a database in readily usable format containing the following information for each Qualified Class Member:
 - a. Name and Social Security Number;
 - b. Current grade and step if retirement eligible, or if retired, grade and step at retirement;
 - c. Time in grade at GS-13 and GS-14 through February 25, 2002, or retirement;
 - d. Each grade change out of GS-13 or GS-14, including both promotions and demotions during the Qualified Class Member's tenure at Goddard through February 25, 2002, or retirement, and the date of each such change;
 - e. The number of annual "high ratings," as defined in paragraph 4 below, each Qualified Class Member received between April, 1991 and February 25, 2002; and
 - f. If the Qualified Class Member is retired, the retirement effective date.
2. Within forty-five (45) days of Final Approval, Class Counsel will make available to any Qualified Class Member, on request, a synopsis of the data received by Class Counsel from Goddard pertaining to that Qualified Class Member. Any Qualified Class Member desiring to receive this synopsis may do so by writing within forty-five (45) days of approval to "Administrator for NASA Goddard Class" at P.O. Box No. 10888, Tallahassee, Florida 32302-2888. Goddard shall also permit Class Counsel to post one representative of Counsel at a Goddard building most convenient to the Class on or about the thirty-fifth (35th) day following Final Approval so that Qualified Class Members may verify their data in person. Qualified Class Members have sixty (60) days from Final Approval to challenge in writing the accuracy of the data to be used in determining their eligibility for a promotion award, which challenge must be in writing, postmarked no more than 60 days following final approval, and addressed to "Administrator for NASA Goddard Class" at P.O. Box No. 10888, Tallahassee, Florida 32302-2888. Such

¹ The term Qualified Class Member refers only to retired or retirement eligible Class Members who have spent at least five years at Goddard immediately prior to their retirement, and who have not previous to this Settlement signed a valid release of or had finally adjudicated a race discrimination claim for non-promotion to a GS-14 or GS-15 non-managerial, non-supervisory position as a scientist or engineer. Those who have settled such claims or have had such a claim adjudicated may not be eligible for an award, or may be eligible for a reduced award.

challenge shall be strictly limited to demonstrable factual inaccuracies concerning dates of hire, retirement, time in grade, and the like.

3. Using the data identified above, within one hundred twenty (120) days of Final Approval, Class Counsel's expert will perform an analysis of Qualified Class Members currently in grades GS-13 and GS-14 to determine the appropriate time-in-grade to be used for each Qualified Class Member. The time-in-grade for each Qualified Class Member will be determined as follows:

a. For each Qualified Class Member, the expert will compile a list of grades, limited only to GS-13 and GS-14, that the Qualified Class Member served in between April 19, 1991 and February 25, 2002 or retirement. For each such grade, a calculation will be made of the length of time that such Qualified Class Member served in that grade during the entire time he or she worked in the federal civil service until February 25, 2002 or retirement. The time-in-grade used for each Qualified Class Member will be the longest amount of time that the employee spent in any single grade.

For example, if an employee currently in grade 14 served in grades 13 and 14 during the period from April, 1991 to February 25, 2002, a calculation will be made of the amount of time spent in each of grades 13 and 14. The result might be as follows: GS-13, 48 months; GS-14, 188 months. For purposes of calculating the time-in-grade score, that Qualified Class Member would have a time-in-grade score of 188 months based on the amount of time served as a GS-14. If the employee had served 188 months as a GS-13, his time-in-grade score would be 188 months because it is based on the GS-13 grade.

b. All Qualified Class Members would be listed in order in accordance with their longest time-in-grade as calculated in paragraph 3(a). Thus, each employee will be placed in a combined list of all GS-13 and GS-14s, with their time-in-grade being used to place him or her in the correct order in relation to his or her peers. The Qualified Class Member with the longest time in grade would receive a score equal to the number of Qualified Class Members on the list. Then, moving from the top of the list to the bottom, each Qualified Class Member would receive one less point than the Qualified Class Member above him or her, with the Qualified Class Member with the shortest time-in-grade receiving one point.

For example, if there are 115 Qualified Class Members, the Qualified Class Member with the longest time-in-grade would receive 115 points. The Qualified Class Member with the next highest time in grade would receive 114 points, and so on. Ties would be dealt with by averaging the points available for the slots for which the Qualified Class Members are tied. For example, if there were 115 employees, those with the second, third and fourth longest time-in-grade would usually receive scores of 114, 113 and 112 respectively. However, if three

employees tied for the second longest time-in-grade, then each of them would receive the average of the above scores, or a score of 113.

4. For each Qualified Class Member, a calculation will be made as to the total number collectively of “Outstanding,” “Highly Successful,” and after 1997, “Pass” *plus* an employee performance award (collectively referred to as “high ratings”) annual ratings the employee received, limited to those received when the employee was in a GS-13 or GS-14 position, and further limited to those received following April 19, 1991 up to February 25, 2002. All Qualified Class Members would be listed in order of Qualified Class Member with the highest number of high ratings received. On the list, the Qualified Class Member with the highest number of high ratings received would receive a score equal to the number of Qualified Class Members on the list. Then, moving from the top of the list to the bottom, each Qualified Class Member would receive one less point than the Qualified Class Member above, and so on, with the Qualified Class Member with the fewest such ratings would receive one point. Ties would be addressed in the same manner as paragraph 3 above.

5. For each Qualified Class Member, a calculation also will be made by Class Counsel as to the total number of points received by the Qualified Class Member for his or her contribution to the prosecution and mediation of the case (“contribution points”). The maximum number of contribution points is equivalent to the maximum number of time-in-grade points. The formula for determining contribution points shall include such factors as service as: Class Agent; initiation and prosecution of the complaint; service as a Mediation Representative; attendance at attorney-client strategy sessions for mediation; substantive assistance to Class Counsel during mediation; and financial contribution to litigation fund. Qualified Class Members will not be ordered on a list descending by one point with respect to their contribution points; rather each Qualified Class Member will be eligible for the total number of such points available.

6. For each Qualified Class Member, the number of points he or she is assigned for high ratings pursuant to paragraph 4 above is added to the points assigned for time-in-grade and contribution. Qualified Class Members then are listed from highest to lowest number of points as calculated in this paragraph. *Subject to the approval procedures set forth in the paragraphs below*, promotions awards of one grade would be awarded to Qualified Class Members who are numbers one through 12 on the list; except that if the highest scoring Qualified Class Member has more than double the points of the lowest scoring Qualified Class Member numbering one through 12 on the list, such high scoring Qualified Class Member shall receive a two-grade promotion award and only Qualified Class Members one through 11 on the list would be promoted. If the next highest scoring Qualified Class Member receives more than double the points of the remaining lowest scoring Qualified Class Members on the list (numbers one through 11), then two Qualified Class Members would receive two-grade promotion awards and only Qualified Class Members one through 10 on the list would be promoted, and so on. Promotion award is as defined in Part III.C of the Decree.

For example, assume that there are five Qualified Class Members currently employed at Goddard in grades GS-13 and GS-14. Those five Qualified Class Members would be ranked against each other in terms of time-in-grade, number of annual highest ratings received and contribution points. The results might be as follows:

Qualified Class Member	Months Counted for Time-In-Grade	Highest Ratings (HR) Counted	Contribution Points	Total Points
1	33 months (2 points)	5 HRs (3 points)	5	10
2	46 months (3 points)	7 HRs (4 points)	1	8
3	88 months (4 points)	11 HRs (5 points)	5	14
4	17 months (1 point)	2 HRs (1 points)	3	5
5	121 months (5 points)	3 HRs (2 points)	3	10

Further, for purposes of this example, assuming there were five promotion awards to be granted, Qualified Class Member 3 would receive a two-grade promotion award, Qualified Class Member 1 a one-grade promotion award; Qualified Class Member 5 a one-grade promotion award; and Qualified Class Member 2 a one-grade promotion award. Qualified Class Member 4 would not receive a promotion award because Qualified Class Member 3 scored more than double his or her points. Qualified Class Member 1 would not receive a two-grade promotion award because Qualified Class Member 4 would be dropped from this list prior to calculation of Qualified Class Member 1's promotion award, and Qualified Class Member 1 did not score twice as high as the next lowest scoring Qualified Class Member.

7. After completion of steps one through six, Class Counsel shall promptly notify those Qualified Class Members of their qualification for a promotion award, and that their proposed award is being submitted to the presiding Administrative Judge for approval. Prior to submission of the proposed awards to the presiding Administrative Judge, retirement eligible Qualified Class Members will be given thirty (30) days from notice of their qualification for an award to elect in writing to Class Counsel whether they wish to accept the award and retire or to remain a current employee and decline the award. During this same thirty-day period, Qualified Class Members who do not qualify for a promotion award may appeal their non-qualification to Class Counsel in writing. Such Class Members will be provided with the mathematical computation of their own points exclusively (based on the previously approved personnel data), and the sole basis for upholding an appeal shall be a computational error. The appeal must be postmarked within thirty (30) days of mailing of the award notification, and mailed to "Administrator for NASA Goddard Class" at P.O. Box No. 10888, Tallahassee, Florida 32302-2888.

8. After completion of steps one through seven, Class Counsel shall file with the presiding Administrative Judge, under seal, a list of the Qualified Class Members to receive promotion awards and the type of award for approval, any appeals and responses thereto, along with the calculations and ranked list of Qualified Class Members.

9. All proposed awards are subject to adjustment pending resolution of any appeals and approval of the presiding Administrative Judge.

10. On the presiding Administrative Judge's approval of the promotion awards, Goddard shall effect the promotion awards according to the procedures and time line set forth in the Settlement Agreement.